

OPEN MEETING ITEM

11/4/10



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COMMISSIONERS
KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR



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ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Kristin K. Mayes, Chairman
Gary Pierce
Paul Newman
Sandra D. Kennedy
Bob Stump

Arizona Corporation Commission

DOCKETED

OCT 22 2010

FROM: Matthew J. Neubert
Director of Securities

DOCKETED BY

[Signature]

DATE: October 12, 2010

RE: *In re Barron Wilson Thomas, Barron Thomas Scottsdale, L.L.C., Barron Thomas Aviation, Inc., Barron Thomas Aviation Holdings, Inc., Barron Thomas Southwest, Inc.,*
Docket No. S-20720A-10-0001

CC: Ernest G. Johnson, Executive Director

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AZ CORP COMMISSION
DOCKET CONTROL

Please find attached for your consideration a proposed Order To Cease And Desist, Order For Restitution, Order For Administrative Penalties And Consent To Same By All Respondents ("Order"). The Order finds that from 1992 to 2009, respondent Barron Wilson Thomas ("BT") individually, and on behalf of the above listed companies owned by him, issued and sold \$10,712,694 worth of securities in the form of notes to 91 investors residing in Arizona, 27 other states and Canada. BT promised investors that he would: (a) use their money to purchase, refurbish and resell airplanes; and (b) pay them passive profits in the form of 12% annual interest during the one or two year investments (the "12% Investments"). BT further promised investors verbally and in writing that their 12% Investments would be safe and adequately secured by perfected lien interests in the airplane(s) purchased and refurbished by respondents with investor funds.

The Order finds that respondents violated A.R.S. §§ 44-1841 & 44-1842 of the Arizona Securities Act ("Act") by selling unregistered securities while not being registered as securities salesman or dealers, or exempt from registration.

The Order also finds that respondents violated the anti-fraud provision of the Act, A.R.S. § 44-1991, by failing to disclose to investors that: (a) their 12% Investments would ultimately be under secured and/or effectively unsecured by damaged, salvaged, disassembled, un-flyable and or low value airplanes and/or aircraft parts in a deteriorated state, and located in unknown locations across the country; and (b) that respondents sometimes used the 12% Investment funds of one investor to repay the principal investment of another investor.

The Order also requires respondents to: (a) permanently cease and desist from violating the Act; (b) pay \$9,901,294 in restitution; and (c) pay a \$150,000 administrative penalty.

The Division recommends the Order as appropriate, in the public interest and necessary for the protection of investors.

Originator: Mike Dailey

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 In the matter of)

9 BARRON WILSON THOMAS, a single)
10 man,)

11 BARRON THOMAS SCOTTSDALE,)
12 L.L.C., an Arizona limited liability)
13 company,)

14 BARRON THOMAS SCOTTSDALE,)
15 L.L.C., a Delaware limited liability)
16 company,)

17 BARRON THOMAS AVIATION, INC., a)
18 Delaware corporation,)

19 BARRON THOMAS AVIATION)
20 HOLDINGS, INC., a Delaware corporation,)

21 BARRON THOMAS SOUTHWEST, INC.,)
22 a Delaware corporation,)

23 Respondents.)

DOCKET NO. S-20720A-10-0001

DECISION NO. _____

**ORDER TO CEASE AND DESIST, ORDER
FOR RESTITUTION, ORDER FOR
ADMINISTRATIVE PENALTIES AND
CONSENT TO SAME BY ALL
RESPONDENTS**

24 Respondents BARRON WILSON THOMAS, BARRON THOMAS SCOTTSDALE,
25 L.L.C. (an Arizona limited liability company), BARRON THOMAS SCOTTSDALE, L.L.C. (a
26 Delaware limited liability company), BARRON THOMAS AVIATION, INC., BARRON
THOMAS AVIATION HOLDINGS, INC. and BARRON THOMAS SOUTHWEST, INC.
("Respondents") elect to permanently waive any right to a hearing and appeal under Articles 11 and
12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this
Order To Cease And Desist, Order For Restitution, Order For Administrative Penalties ("Order")
and Consent To Same.

RESPONDENTS admit the jurisdiction of the Arizona Corporation Commission ("Commission"). RESPONDENTS consent to entry of the Order without admitting or denying any of the Findings of Fact and Conclusions of Law contained in the Order, without trial of any issue of fact or law pertaining to this Order, and provided that no Findings of Fact or Conclusions of Law contained in the Order shall be attributed to, effective against, or binding upon RESPONDENTS for any purpose other than in this case, any proceeding before the Commission or any administrative or civil proceeding to which the Commission is a party. Nothing herein shall have any collateral estoppel or res judicata effect against RESPONDENTS for any purpose except for this case, any proceeding before the Commission or any administrative or civil proceeding to which the Commission is a party. RESPONDENTS consent to the entry of this Order by the Commission.

I.

FINDINGS OF FACT

1. Respondent BARRON WILSON THOMAS ("BT") is a single man who resides in Scottsdale, Arizona. At all times relevant, BT offered and sold unregistered securities within and from Arizona in his individual capacity, and on behalf of respondents: (a) BARRON THOMAS SCOTTSDALE, L.L.C., an Arizona limited liability company ("BTS-AZ") as its owner and managing member; (b) BARRON THOMAS SCOTTSDALE, L.L.C., a Delaware limited liability company ("BTS-DE") as its owner and managing member; (c) BARRON THOMAS AVIATION, INC. as its president and sole shareholder; (d) BARRON THOMAS AVIATION HOLDINGS, INC. as its president and sole shareholder; and (e) BARRON THOMAS SOUTHWEST, INC. as its president and sole shareholder. Since at least January 12, 1992, to the present, BT has maintained a principal place of business in Scottsdale, Arizona. BT has not been registered as a securities salesman or dealer by the Commission.

2. BTS-AZ was organized by BT as an Arizona limited liability company on or about December 19, 1997. From on or about December 19, 1997, to the present, BTS-AZ has maintained

1 a principal place of business in Scottsdale, Arizona. BTS-AZ has not been registered as a securities
2 dealer by the Commission.

3 3. BTS-DE was organized by BT as a Delaware limited liability company on or about
4 May 22, 2008. From on or about May 22, 2008, to the present, BTS-DE has maintained a principal
5 place of business in Scottsdale, Arizona. BTS-DE has not been registered as a securities dealer by
6 the Commission.

7 4. BARRON THOMAS AVIATION, INC. ("BTA") was formed by BT as a Delaware
8 corporation on or about March 1, 1990. From on or about January 12, 1992, to the present, BTA has
9 maintained a principal place of business in Scottsdale, Arizona. BTA has not been registered as a
10 securities dealer by the Commission.

11 5. BARRON THOMAS AVIATION HOLDINGS, INC. ("BTAH") was formed by BT
12 as a Delaware corporation on or about November 1, 1999. From on or about November 1, 1999, to
13 the present, BTAH has maintained a principal place of business in Scottsdale, Arizona. BTAH has
14 not been registered as a securities dealer by the Commission.

15 6. BARRON THOMAS SOUTHWEST, INC. ("BTSW") was formed by BT as a
16 Delaware corporation on or about November 1, 1999. From on or about November 1, 1999, to the
17 present, BTSW has maintained a principal place of business in Scottsdale, Arizona. BTSW has not
18 been registered as a securities dealer by the Commission.

19 7. BTS-AZ and BTS-DE may be referred to collectively as "BTS." BTS, BTA, BTAH
20 and BTSW may be referred to collectively as the "BT COMPANIES." BT and the BT
21 COMPANIES may be referred to collectively as "RESPONDENT(S)."

22 8. From on or about January 12, 1992, to at least March 22, 2009, RESPONDENTS
23 offered and sold unregistered securities within or from Arizona in the form of notes.

24 9. At all times relevant, BT represented to offerees and investors, both verbally and in
25 writing that he would use investor money to purchase, refurbish and resell airplanes to generate a
26 profit, for instance, as follows:

1 We [RESPONDENTS] raise our own money to buy inventory vs. going to the
2 Banks. We buy airplanes, fix them up, and hold them for resale...We have found,
3 over the years, that this is a more stable way of financing our airplanes than dealing
4 with a constant changing list of Bank representatives, and the hot-and-cold nature of
5 Banks.

6 10. At all times relevant, BT represented to offerees and investor that the investments
7 pay investors a return of twelve percent per year, with interest paid out on a monthly basis and the
8 eventual return of their principal at the conclusion of the investments (the "12% Investment(s)").

9 11. At all times relevant, BT further represented to offerees and investors that each 12%
10 Investment would be "secured" by a lien on the airplane purchased by RESPONDENTS with the
11 investors' money that would be recorded in the investors' favor with the Federal Aviation
12 Administration ("FAA") (the "FAA Lien(s)").

13 12. BT did purchase and sell airplanes with investor money. However, as discussed
14 further below, airplane collateral often and/or last assigned by RESPONDENTS to act as
15 "security" for the 12% Investments is of extremely poor quality and, thus, the low market value of
16 such collateral bore no reasonable relationship to the amount of the investors' principal
17 investments.

18 The 12% Investment Advertisements

19 13. From on or about January 12, 1992, to at least March 22, 2009, BT publically
20 advertised the 12% Investments within or from Arizona in an aviation magazine called "Trade-A-
21 Plane®" ("TAP") (the "Advertisement(s)"). TAP is full color magazine internationally circulated
22 in the United States and numerous countries worldwide. TAP is published three times each month;
23 it also prints approximately 1.7 million copies per year and has greater than 130,000 unique
24 monthly subscribers/recipients. Published continuously since 1937, TAP represents to advertisers
25 that it is the preeminent "Aviation MarketPlace®" with a larger page-count and more advertisers
26 than any other aviation magazine, including those that offer editorial content.

14. From January 12, 1992, to the present, TAP has continuously mailed its magazines
to Arizona subscribers at their Arizona residences, and subscribers residing in the other forty-nine

1 U.S. states, three U.S. territories including Guam, Puerto Rico and the Virgin Islands and over one
 2 hundred countries worldwide including, for instance, Canada and Mexico. In August 2008, TAP
 3 had approximately 4,139 magazine subscribers residing in Arizona who each ordered one to three
 4 copies of TAP magazine every month. Each year TAP also distributes tens of thousands of
 5 complimentary TAP magazines at trade shows and extremely large aviation events or "fly-in"
 6 gatherings attended by tens of thousands of persons from many countries held in, for instance,
 7 Alaska, California, Florida, Nevada, Tennessee, Washington and Wisconsin, and abroad in France
 8 and Germany.

9 15. From approximately January 12, 1992, to at least March 22, 2009, BT published the
 10 12% Investment display Advertisements in TAP magazine at least 378 separate times.

11 16. Advertisements displayed in the print edition of TAP magazine are also published
 12 on TAP's website www.trade-a-plane.com. From on or about August 1, 2005, to at least March 22,
 13 2009, the 12% Investment Advertisements were also published in their entirety in both PDF and
 14 digital format on TAP's website. According to TAP, its website averages approximately 48
 15 million page views per month. At all times relevant, TAP's website could be viewed by potential
 16 Arizona investors from their Arizona residences.

17 17. From January 12, 1992, to at least March 22, 2009, the magazine and website 12%
 18 Investment Advertisements contained pictures of three airplanes, RESPONDENTS' telephone and
 19 fax numbers, and stated, for instance:

Earn
12%
 Interest On Short-Term
 Aircraft Mortgages
 -Interest Paid Monthly
 -\$50,000 Minimum
 -Secured at FAA
 -12 Month Term
Barron Thomas

25 (emphasis in originals). The 12% Investment Advertisements contained RESPONDENTS'
 26 Arizona and Dallas, Texas telephone and fax numbers.

Summary of 12% Investment Offering

18. The Advertisements have variously stated that the 12% Investments could be purchased for amounts ranging from \$25,000 to \$100,000. In practice, RESPONDENTS most often sold 12% Investments costing approximately \$50,000 each.

19. Many of RESPONDENTS' investors were subscribers to and regular readers of TAP magazine. The majority of RESPONDENTS' investors purchased their 12% Investments via the telephone after having viewed the Advertisements, often over a period of several years. The majority of RESPONDENTS' investors purchased 12% Investments without having personally met BT.

20. When investors called the telephone number listed in the Advertisements (the "Initial Contact"), BT described to them the benefits of purchasing the 12% Investments including, without limitation: (a) that the 12% Investments would provide investors with passive profits in the form of twelve percent interest on their principal investments; and (b) that each 12% Investment would be "secured" by the airplane purchased with the investor's money. During the Initial Contact, BT emphasized that his ability to pay investors twelve percent interest on their investments would depend on his superior knowledge of the aircraft industry, and his expertise in purchasing, restoring and reselling the airplanes purchased with investor money. Investors contacted by the Division have further stated that they purchased their 12% Investments, in part, based on their belief that BT and the BT COMPANIES were successful airplane brokers who have sold large numbers of aircraft on a national and international basis for many years.

21. The stated terms of the 12% Investments were for either twelve or twenty-four months.

22. Many of the 12% Investments have naturally terminated. Investors who own these expired 12% Investments have requested RESPONDENTS to return their principal investments to no avail. When investors called BT to ask why RESPONDENTS had not returned their principal investments, BT often urged them to be patient and stated, for instance, that: (1) the airplane

1 market was really "slow;" (2) BT was having a "hard time" selling airplanes; and (3) BT was
2 having "cash-flow" problems.

3 23. RESPONDENTS sold 156 discrete 12% Investments, excluding those whereby BT
4 and/or the investors decided to roll-over or extend an existing investment.

5 24. RESPONDENTS sold \$10,712,694 worth of the 12% Investments to ninety-one
6 widely dispersed investors residing throughout Arizona and twenty-seven other states, including
7 Alabama, California, Colorado, Connecticut, Florida, Georgia, Illinois, Kentucky, Massachusetts,
8 Maine, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New
9 Jersey, New Mexico, North Carolina, Oklahoma, Pennsylvania, Tennessee, Texas, Utah,
10 Washington and Wisconsin. BT and BTA also sold three separate 12% Investments totaling
11 \$200,000 to three Canadian investors.

12 25. Of this amount: (a) BT issued and sold 12% Investments totaling \$10,712,694; (b)
13 BTA issued and sold 12% Investments totaling \$6,289,050; (c) BTS-AZ and BTS-DE issued and
14 sold 12% Investments totaling \$4,158,644; (d) BTAH issued and sold 12% Investments totaling
15 \$1,235,000; and (e) BTSW issued and sold 12% Investments totaling \$700,000.

16 **12% Investment Documents**

17 26. Subsequent to the telephonic Initial Contact, BT provided offerees and investors
18 with a standard form, two-page 12% Investment summary titled, "12% interest paid for short-term
19 aircraft loans" (the "Prospectus"). Alternatively, BT verbally recited the contents of the Prospectus
20 to offerees and investors via the telephone either during and/or subsequent to the Initial Contact.

21 27. The Prospectus states that an investor can purchase a 12% Investment by mailing or
22 wiring the investor's money to an aircraft escrow and title company (the "Title Company(ies)") and
23 into their common bank account (the "Common Account").

24 28. The Prospectus further states:

25 The way it works is this: You will send in your money into one of the aircraft
26 escrow companies [selected and controlled by RESPONDENTS]...They are to hold
your funds until we buy an airplane and then fund the aircraft and place a 1st Lien in

1 your favor against the airplane. When we sell the airplane, the funds will be sent
2 to...[the Title Company] and they will payoff your mortgage and give the Buyer a
3 clear title.

4 29. BT himself, and the Title Companies repeatedly referred to the Common Account in
5 writing as the "the Barron Thomas Investor Account" and/or the "Investor Account" and 12%
6 Investment investors as "investor(s)." Similarly, 12% Investors repeatedly referred to the Common
7 Account as their "Investor account" and their investments as "investment(s)."

8 30. The Prospectus states that each 12% Investment investor would receive: (a) a "12%
9 Aircraft Note" (the "Note(s)"); and (b) a standard-form, two-page document further explaining
10 how the 12% Investments were to be documented (the "Document Instructions").

11 31. The Prospectus discloses a single "risk" relating to the purchase of the 12%
12 Investments as follows:

13 Risk: The risk in this deal is a cataclysmic world event that completely stops
14 aircraft sales and exhausts our ability to make interest payments (or sell the
15 airplane) until the panic subsides and the market returns to normal. Our feeling is
16 that, in such a disaster, most all other business situations will experience the same
17 business interruption, so the risk in our deal is probably on par with most other
18 business.

19 BT orally informed one investor that the only risk associated with the 12% Investments was "the
20 end of the world" (collectively, the "Catastrophic World Event" disclosure). RESPONDENTS'
21 disclosure of this single doomsday, improbable risk was designed to cause investors to discount the
22 existence of any investment risk in the ordinary course.

23 32. At all times relevant, BT represented to offerees and investors, both verbally and in
24 writing that each of their 12% Investments would be "secured" by an FAA Lien attached to the
25 airplane purchased with their investment money, and documented by a Note.

26 33. The 12% Investment Notes were issued and made by RESPONDENTS, and signed
by BT in his individual capacity, and on behalf of one of the BT COMPANIES.

34. RESPONDENTS failed to provide many of their 12% Investment investors with
copies of their Notes, FAA Liens and other, material information associated with their 12%

1 Investments including how much their airplane collateral was purchased for, where it was located
2 and its condition.

3 35. As a direct result, many of seventy-six known investors contacted by the Division
4 were unable to: (a) describe either the type or condition of any airplane(s) providing security for
5 their 12% Investments; (b) the location of said airplane(s); (c) the value of said airplane(s); and (d)
6 what if any alleged refurbishing had been performed on the airplanes by RESPONDENTS.

7 36. RESPONDENTS also repeatedly failed to provide the Division with information
8 identifying where the airplanes serving as collateral for the 12% Investments are located. The 12%
9 Investment records provided by the Title Companies and RESPONDENTS to the Division also fail
10 to contain any information regarding the location or condition of the airplanes serving as collateral
11 for the 12% Investments.

12 37. Of the ninety-one known 12% Investors, only a single Michigan investor has been
13 able to locate, take possession of and sell the airplane acting as security for her delinquent 12%
14 Investment. This Michigan investor purchased a \$50,000 12% Investment from BT and BTSW in
15 January 2006. In return, BT and BTSW assigned to the Michigan investor a lien interest in a 1962
16 Cessna 182E with a tail number of N3397Y (the "N3397Y Airplane"). This investment expired in
17 January 2008, and BT and BTSW did not repay the investor as promised. According to the
18 Michigan investor, the N3397Y Airplane is located in at the Monterey Peninsula Airport ("MPA")
19 in Monterey, California, and was purchased by BT and BTSW for \$7,000 on or about June 29,
20 2006. According to MPA authorities, the N3397Y Airplane: (a) is in a state of disrepair and has
21 not been moved from its present tie-down location for approximately six years; and (b) BT is
22 delinquent in paying his airplane storage rental fees. The Michigan investor was able to sell the
23 N3397Y Airplane. However, after expenses such as legal fees, fuel and transportation costs, the
24 Michigan investor netted only \$3,702.49 after her foreclosure sale.

RESPONDENTS' Use of 12% Investor Money

38. At all times relevant, BT has had the discretion, and ability to control the investor funds deposited into the Common Account and/or held by the Title Company. BT directed the Title Company to deposit 12% Investment money it collected for RESPONDENTS into bank accounts owned and controlled by RESPONDENTS. The substantial amount of times that RESPONDENTS transferred investor monies to and from the Common Account(s) and RESPONDENTS' bank accounts, and from the named account of one investor to another resulted in a substantial commingling and pooling of investor monies used by BT to operate his airplane brokerage business. BT paid 12% Investment investors their interest payments with checks or wire transfers drawn on or issued from RESPONDENTS' bank accounts.

39. Further, the Title Companies did not act in a legitimate, or true fiduciary capacity with respect to the 12% Investment investors, primarily because there were no and/or insufficient safeguards in place whereby the Title Companies substantiated the validity of RESPONDENTS' repeated transfers, use and control of the investor funds held in the Common Accounts. For instance, BT often directed a Title Company to "reimburse" him from investor funds held in a Common Account because he had allegedly "already paid the seller" of the airplane to be used as collateral for an investment. In such cases, the Title Companies failed to ask BT to provide them with proof or verification of, for instance, how much BT actually paid for the airplane. Compounding this problem is the fact that airplane purchase Bills of Sale often do not include the actual purchase price.

40. Unbeknownst to 12% Investment Investors, RESPONDENTS repeatedly directed the Title Companies to pay them almost all of the investor's principal investments as reimbursement for their purchase of, for instance, the salvaged and/or damaged airplanes discussed below.

41. For instance, BT informed the Title Company that he had already paid the seller of an airplane with the tail number N182FL. BT directed the Title Company employee to wire into

1 his bank account \$48,500 of the investor's \$100,000 in principal investment funds for
2 "reimbursement for payment to Seller," despite the fact that he only purchased the airplane for
3 \$5,250. The Title Company did so, without requiring any proof of what BT actually paid for the
4 airplane.

5 42. Unbeknownst to investors, RESPONDENTS sometimes used the 12% Investment
6 funds of one investor to repay the principal investment of another investor. A standard form used
7 by BT and one of the Title Companies for many years includes spaces for moving the 12%
8 Investment funds and related airplane collateral from a "new" investor to an "old" investor. For
9 example, a Texas investor purchased a \$50,000 12% Investment from BT and BTA on or about
10 August 13, 1999. BT and BTA recorded an FAA Lien in favor of the Texas investor on a Piper
11 PA-28-180 airplane with tail number N8194W (the "N8194W Airplane"). An Arizona investor
12 purchased a \$50,000 12% Investment from BT and BTA on or about March 14, 2005. On April
13 22, 2005, BT and BTA used the Arizona investor's money to repay the principal investment of the
14 prior Texas investor. BT and BTA then caused a new FAA Lien to be perfected in favor of the
15 new Arizona investor on the N8194W Airplane.

16 43. However, unbeknownst to either the Texas or Arizona investor, the blue and white
17 N8194W Airplane was at all times relevant laying in pieces in an open air storage yard in a
18 severely deteriorated state. The N8194W Airplane is comprised of a separated, dented fuselage
19 with faded paint, no wings, no landing gear and includes other defects.

20 44. Also unbeknownst to either the Texas or Arizona investor, a National
21 Transportation Safety Board ("NTSB") "Brief of Accident" report finds that the N8194W Airplane
22 was crashed in Horizon City, Texas on October 3, 1998, resulting in "serious" pilot injury, and
23 damage to the N8194W Airplane consisting of a damaged engine firewall, right wheel separation
24 and a backwards-bent landing gear strut assembly. (See, NTSB ID: FTW99LA002, File No. 558).

25 45. RESPONDENTS routinely purchased and sold multiple airplanes with the 12%
26 Investment money of a single investor. RESPONDENTS' pattern and practice of purchasing and

1 reselling multiple aircraft with a single investor's money resulted in multiple FAA Liens and/or
2 airplanes being associated with that investor's investment.

3 46. For instance, a Texas investor purchased six 12% Investments totaling
4 approximately \$425,000 from on or about February 28, 1998, to June 21, 2002, from BT and the
5 BT COMPANIES. From on or about March 2, 1998, to the present, BT and the BT COMPANIES
6 have purchased and sold approximately twenty-three different airplanes with the Texas investor's
7 money that have served as collateral for the Texas investor's 12% Investments.

8 **Crashed, Salvaged & Un-Flyable 12% Investment Airplane Collateral**

9 47. RESPONDENTS failed to disclose to 12% Investment investors that their 12%
10 Investments would be secured by an FAA Lien attached to: (a) damaged, salvaged and/or
11 neglected airplanes and/or disassembled aircraft parts; and (b) airplanes with a market value well
12 below the investors' principal 12% Investments. Thus, RESPONDENTS further failed to disclose
13 to investors that their investments would actually be under-secured and/or effectively unsecured.

14 48. Analogous to the N8194W Airplane discussed above, RESPONDENTS sometimes
15 caused 12% Investments to be secured by airplanes that have been damaged in serious accidents
16 (the "Crashed Airplane Collateral").

17 49. For instance, an elderly Illinois investor purchased a \$50,000 12% Investment from
18 BT and BTS on or about November 17, 2005. On paper, this investor's investment was secured by
19 an FAA Lien on a 1965 Piper PA-25-235 crop-dusting airplane with the tail number N7399Z (the
20 "N7399Z Airplane"). Unbeknownst to this investor, and according to a NTSB "Brief of Accident"
21 report, the N7399Z Airplane was crashed in Colquitt, Georgia on August 21, 2005, or less than
22 three months prior to the Illinois investor's 12% Investment purchase. (See, NTSB ID:
23 ATL05LA149, File No. 19114). A search of the FAA's website indicates that the N7399Z
24 Airplane "may not be suitable for operation." Also unbeknownst to the Illinois investor, the pilot
25 involved in the crash of the N7399Z Airplane was killed, and the airplane sustained "substantial
26 damage" including, without limitation, separated right and left wings, a "crushed" left wing and

1 spar with "accordion-type deformation," a twisted propeller and other engine and structural
2 damage caused when the N7399Z Airplane collided with trees and the ground.

3 50. Similarly, a California investor purchased \$100,000 worth of 12% Investments from
4 BT and BTSW on or about February 17, 2006, and was assigned a security interest in an airplane
5 with the tail number of N3380G (the "N3380G Airplane"). BT and BTS purchased the N3380G
6 Airplane from a used aircraft parts company on September 29, 2004, for \$2,000. The \$2,000 sales
7 price for the N3380G Airplane reflects the fact that the "[a]ircraft struck trees and crashed on 7-4-
8 2003" and its fuselage, tail assembly (*i.e.*, empennage), cowlings, wings and ailerons were
9 destroyed, and one aileron was not recovered. According to an NTSB "Brief of Accident" report,
10 the N3380G Airplane was crashed by a pilot attempting to make an emergency landing on an "old
11 logging" road after having run out of fuel, resulting in "substantial damage" to "[b]oth wings, the
12 rudder, elevator, and both horizontal and vertical stabilizers." (*See*, NTSB ID: SEA03LA127, File
13 No. 14501). Further, BT used \$50,000 of the California investor's investment monies to "payoff"
14 a previous investor who had purchased a \$50,000 12% Investment from BT and BTS. The
15 Division has been unable to locate the N3380G Airplane, or determine whether BT or BTSW spent
16 any money "fixing-up" or refurbishing the airplane.

17 51. RESPONDENTS also purchased extensively damaged and salvaged airplanes
18 stripped of their components to serve as collateral for 12% Investments including, without
19 limitation an airplane with the tail number N1652B (the "N1652B Airplane") that received damage
20 to major components (*i.e.*, propeller, cowlings, landing gear, windshield, wingtip, fuselage and skin
21 skins buckled, horizontal and vertical stabilizers, rudder, elevator, etc.) after being blown over by
22 wind purchased by BT and BTS for \$4,950 to secure an investor's \$50,000 12% Investment. The
23 N1652B Airplane is lying in pieces in a south Phoenix open air storage yard.

24 52. In another case, and without limitation, a title report provided to BT by the Title
25 Company regarding an airplane with the tail number N47TA assigned as security for an investor's
26 12% Investment states that the "[a]ircraft is in an unregistered status, reported destroyed/scrapped

1 10/25/03.” The N47TA Airplane is currently sitting in the open air storage yard in south Phoenix
2 and has no attached wings, landing gear, engine or propeller, etc. Further, BT and BTS purchased
3 the N47TA airplane for only \$2,450, and assigned it to serve as collateral for investors’ two 12%
4 Investments totaling \$150,000. The N47TA purchase documents demonstrate that the airplane was
5 missing its log books, and was crashed on an unfinished runway and hit trees after its engine quit
6 working.

7 53. The Division has been able to locate forty-five (45) airplanes providing “security”
8 for the 12% Investments located at: (a) the south Phoenix storage yard; (b) BMA (c) Scottsdale
9 Airport; (d) Phoenix-Goodyear Airport; (e) Kingman Airport in Kingman, Arizona; (f) Dauster
10 Flying Field-Creve Coeur Airport Imp. Corp. in St. Louis, Missouri; (g) Sweetwater County
11 Airport in Rock Springs, Wyoming; (h) Airport Mini Storage, Deer Park, Washington; (i) City of
12 Watonga Municipal Airport in Watonga, Oklahoma; and (j) Monterey Peninsula Airport located in
13 Monterey, California. Of the forty-five (45) airplanes located by the Division, only five appear to
14 be in a completely assembled state. Of those, only two appear to be in a completely assembled and
15 airworthy state

16 54. Additionally, the majority of these located airplanes have been sitting in an
17 undisturbed state (*i.e.*, flat tires, etc.) for *many* years at these various locations. Further,
18 RESPONDENTS are delinquent in paying hanger and tie-down fees to the landlords where many
19 of the 12% Investment related airplanes are located and, as a result, said airplanes are at risk of
20 being seized and sold by the landlords storing the airplanes.

21 **Status of the 12% Investments**

22 55. RESPONDENTS managed the essential aspects of the 12% Investments on behalf of
23 investors. Without limitation, RESPONDENTS represented to offerees and investors, both verbally
24 and in writing that they and/or third-parties would: (a) locate, evaluate and purchase aircraft with
25 investor money; (b) restore or refurbish the aircraft purchased with investor money; (c) advertise the
26 purchased and/or refurbished aircraft, in part, via BT’s aircraft sales and financing website

1 www.barronthomas.com and/or www.barronthomasaircraftsales.com; (d) solicit or locate potential
2 aircraft purchasers; (e) negotiate the terms and conditions of the sale of the aircraft to third-parties; (f)
3 arrange for, and/or assist potential aircraft purchasers with the financing of their aircraft purchase; (g)
4 select, communicate with and direct the Title Companies to assist with the purchase and sale of
5 aircraft including, the preparation and filing of 12% Investment documentation including FAA Liens,
6 Bills of Sale and Lien Releases; and (h) collect and distribute to investors aircraft purchase proceeds.

7 II.

8 CONCLUSIONS OF LAW

9 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
10 Arizona Constitution and the Securities Act.

11 2. RESPONDENTS offered or sold securities in the form of notes within or from
12 Arizona, within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

13 3. From January 12, 1992, to March 22, 2009, BT violated A.R.S. § 44-1841 by offering
14 or selling securities within or from Arizona.

15 4. From on or about December 19, 1997, to March 22, 2009, BTS-AZ violated A.R.S. §
16 44-1841 by offering or selling securities within or from Arizona.

17 5. From on or about May 22, 2008, to March 22, 2009, BTS-DE violated A.R.S. § 44-
18 1841 by offering or selling securities within or from Arizona.

19 6. From on or about January 12, 1992, to March 22, 2009, BTA violated A.R.S. § 44-
20 1841 by offering or selling securities within or from Arizona.

21 7. From on or about November 1, 1999, to March 22, 2009, BTAH violated A.R.S. § 44-
22 1841 by offering or selling securities within or from Arizona.

23 8. From on or about November 1, 1999, to March 22, 2009, BTSW violated A.R.S. § 44-
24 1841 by offering or selling securities within or from Arizona.

25 9. RESPONDENTS violated A.R.S. § 44-1842 by offering or selling securities while
26 neither registered as dealers or salesmen nor exempt from registration.

1 10. RESPONDENTS violated A.R.S. § 44-1991. RESPONDENTS' conduct includes
2 the following:

3 A. Representing to offerees and investors verbally and in writing that each 12%
4 Investment would be safe, secured and adequately collateralized by an airplane
5 purchased and refurbished by RESPONDENTS with the investors' money, while
6 further failing to disclose to them that their investments would ultimately be under
7 secured and/or effectively unsecured by damaged, salvaged, disassembled, un-
8 flyable and or low value airplanes and/or aircraft parts in a deteriorated state, and
9 located in unknown locations across the country.

10 B. Representing to offerees and investors that RESPONDENTS would use 12%
11 Investment funds to purchase, refurbish and resale airplanes, while further failing to
12 disclose to them that RESPONDENTS sometimes used the 12% Investment funds
13 of one investor to repay the principal investment of another investor.

14 11. RESPONDENTS' conduct is grounds for a cease and desist order pursuant to A.R.S.
15 § 44-2032.

16 12. RESPONDENTS' conduct is grounds for an order of restitution pursuant to A.R.S. §
17 44-2032.

18 13. RESPONDENTS' conduct is grounds for administrative penalties under A.R.S. §
19 44-2036.

20 **III.**

21 **ORDER**

22 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and
23 RESPONDENTS' consent to the entry of this Order, attached and incorporated by reference, the
24 Commission finds that the following relief is appropriate, in the public interest, and necessary for
25 the protection of investors:
26

1 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS, and any of
2 RESPONDENTS' agents, employees, successors and assigns, permanently cease and desist from
3 violating the Securities Act.

4 IT IS FURTHER ORDERED that RESPONDENTS comply with the attached Consent to
5 Entry of Order.

6 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032 that RESPONDENTS are
7 jointly and severally liable for payment of restitution of the principal amount of \$9,901,294. BT's
8 restitution obligation under this Order will be paid in full upon payment of \$9,901,294. BTA's
9 restitution obligation under this Order will be paid in full upon the earlier of: (a) payment by BTA
10 of \$5,632,650; or (b) payment by any RESPONDENT(S) of \$9,901,294. BTS-AZ's restitution
11 obligation under this Order will be paid in full upon the earlier of: (a) payment by BTS-AZ of
12 \$3,993,644; or (b) payment by any RESPONDENT(S) of \$9,901,294. BTS-DE's restitution
13 obligation under this Order will be paid in full upon the earlier of: (a) payment by BTS-DE of
14 \$3,993,644; or (b) payment by any RESPONDENT(S) of \$9,901,294. BTAH's restitution
15 obligation under this Order will be paid in full upon the earlier of: (a) payment by BTAH of
16 \$1,204,700; or (b) payment by any RESPONDENT(S) of \$9,901,294. BTBW's restitution
17 obligation under this Order will be paid in full upon the earlier of: (a) payment by BTBW of
18 \$660,000; or (b) payment by any RESPONDENT(S) of \$9,901,294. Payment is due in full on the
19 date of this Order. Payment shall be made to the "State of Arizona" to be placed in an interest-
20 bearing account controlled by the Commission. Any principal amount outstanding shall accrue
21 interest at the rate of 10 percent per annum from the date of purchase until paid in full.

22 The Commission, in its sole discretion, may credit the amount of restitution owed by
23 RESPONDENTS with the value of any restitution payments made by them to the 12% Investment
24 investors. RESPONDENTS shall provide to the Commission all information and documentation to
25 verify that such restitution has been paid which the Commission, in its sole discretion, may accept
26 or reject. The Commission shall disburse the ordered restitution and interest payments paid to the

1 State of Arizona on a pro-rata basis to investors shown on the records of the Commission. Any
2 ordered restitution and interest payments paid to the State of Arizona that the Commission cannot
3 disburse because an investor refuses to accept such payment, or any restitution funds that cannot be
4 disbursed to an investor because the investor is deceased and the Commission cannot reasonably
5 identify and locate the deceased investor's spouse or natural children surviving at the time of the
6 distribution, shall be disbursed on a pro-rata basis to the remaining investors shown on the records
7 of the Commission. Any ordered restitution and interest payments paid to the State of Arizona that
8 the Commission determines it is unable to or cannot feasibly disburse shall be transferred to the
9 general fund of the state of Arizona.

10 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS jointly
11 and severally shall pay an administrative penalty in the amount of \$150,000. Payment is due in full
12 on the date of this Order. Payment shall be made to the "State of Arizona." Any amount
13 outstanding shall accrue interest as allowed by law.

14 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be
15 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments
16 shall be applied to the penalty obligation.

17 For purposes of this Order, a bankruptcy filing by any of the Respondents shall be an act of
18 default. If any Respondent does not comply with this Order, any outstanding balance may be
19 deemed in default and shall be immediately due and payable.

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1 IT IS FURTHER ORDERED, that if any Respondent fails to comply with this order, the
2 Commission may bring further legal proceedings against that Respondent, including application to
3 the superior court for an order of contempt.

4 IT IS FURTHER ORDERED that this Order shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION
6
7

8 CHAIRMAN

COMMISSIONER

10
11 COMMISSIONER

COMMISSIONER

COMMISSIONER

12 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
13 Executive Director of the Arizona Corporation Commission,
14 have hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of
16 Phoenix, this _____ day of November, 2010.

17 _____
18 ERNEST G. JOHNSON
19 EXECUTIVE DIRECTOR

20 _____
21 DISSENT

22 _____
23 DISSENT

24 This document is available in alternative formats by contacting Shaylin A. Bernal, ADA
25 Coordinator, voice phone number 602-542-3931, e-mail sabernal@azcc.gov.

26 (MD)

CONSENT TO ENTRY OF ORDER

1
2 1. Respondents BARRON WILSON THOMAS, a single man ("BT"), BARRON
3 THOMAS SCOTTSDALE, L.L.C., an Arizona limited liability company ("BTS-AZ"), BARRON
4 THOMAS SCOTTSDALE, L.L.C., a Delaware limited liability company ("BTS-DE"), BARRON
5 THOMAS AVIATION, INC., a Delaware corporation ("BTA"), BARRON THOMAS AVIATION
6 HOLDINGS, INC., a Delaware corporation ("BTAH") and BARRON THOMAS SOUTHWEST,
7 INC., a Delaware corporation ("BTSW") (collectively sometimes "RESPONDENTS") admit the
8 jurisdiction of the Commission over the subject matter of this proceeding. RESPONDENTS
9 acknowledge that they have been fully advised of their right to a hearing to present evidence and
10 call witnesses and RESPONDENTS knowingly and voluntarily waive any and all rights to a
11 hearing before the Commission and all other rights otherwise available under Article 11 of the
12 Securities Act and Title 14 of the Arizona Administrative Code. RESPONDENTS acknowledge
13 that this Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties
14 ("Order") constitutes a valid final order of the Commission.

15 2. RESPONDENTS knowingly and voluntarily waive any right under Article 12 of the
16 Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief
17 resulting from the entry of this Order.

18 3. RESPONDENTS acknowledge and agree that this Order is entered into freely and
19 voluntarily and that no promise was made or coercion used to induce such entry.

20 4. RESPONDENTS acknowledge that they have been represented by an attorney in this
21 matter, RESPONDENTS have reviewed this Order with their attorney, Brian Schulman, Esq. of the
22 law firm Greenburg Traurig, L.L.P., understand all terms it contains. RESPONDENTS
23 acknowledge that their attorney has apprised them of their rights regarding any conflicts of interest
24 arising from dual representation. RESPONDENTS acknowledge that they have each given their
25 informed consent to such representation.
26

1 5. RESPONDENTS consent to entry of the Order without admitting or denying any of
2 the Findings of Fact and Conclusions of Law contained in the Order, without trial of any issue of
3 fact or law pertaining to this Order, and provided that no Findings of Fact or Conclusions of Law
4 contained in the Order shall be attributed to, effective against, or binding upon RESPONDENTS
5 for any purpose other than in this case, any proceeding before the Commission or any
6 administrative or civil proceeding to which the Commission is a party. Nothing herein shall have
7 any collateral estoppel or res judicata effect against RESPONDENTS for any purpose except for
8 this case, any proceeding before the Commission or any administrative or civil proceeding to which
9 the Commission is a party. RESPONDENTS consent to the entry of this Order by the Commission.

10 6. Subject to the provisions of paragraph 5 under the this Consent to Entry of Order, by
11 consenting to the entry of this Order, RESPONDENTS agree not to take any action or to make, or
12 permit to be made, any public statement denying, directly or indirectly, any Finding of Fact or
13 Conclusion of Law in this Order or creating the impression that this Order is without factual basis.
14 Notwithstanding the foregoing, the Order is not intended to collaterally estop or preclude
15 RESPONDENTS from defending themselves in any civil proceeding in which the Commission is
16 not a party or any criminal proceeding. RESPONDENTS will undertake steps necessary to assure
17 that all of RESPONDENTS' agents and employees understand and comply with this agreement.

18 7. While this Order settles this administrative matter between RESPONDENTS and the
19 Commission, RESPONDENTS understand that this Order does not preclude the Commission from
20 instituting other administrative or civil proceedings based on violations that are not addressed by
21 this Order.

22 8. RESPONDENTS understand that this Order does not preclude the Commission from
23 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
24 that may be related to the matters addressed by this Order.

25

26

1 9. RESPONDENTS understand that this Order does not preclude any other agency or
2 officer of the state of Arizona or its subdivisions from instituting administrative, civil, or criminal
3 proceedings that may be related to matters addressed by this Order.

4 10. RESPONDENTS agree that they will not apply to the state of Arizona for
5 registration as a securities dealer or salesman or for licensure as an investment adviser or
6 investment adviser representative until such time as all restitution and penalties under this Order are
7 paid in full.

8 11. RESPONDENTS agree that they will not exercise any control over any entity that
9 offers or sells securities or provides investment advisory services within or from Arizona until such
10 time as all restitution and penalties under this Order are paid in full.

11 12. RESPONDENTS agree that they will not sell any securities in or from Arizona
12 without being properly registered in Arizona as a dealer or salesman, or exempt from such
13 registration; RESPONDENTS will not sell any securities in or from Arizona unless the securities
14 are registered in Arizona or exempt from registration; and RESPONDENTS will not transact
15 business in Arizona as an investment adviser or an investment adviser representative unless
16 properly licensed in Arizona or exempt from licensure.

17 13. RESPONDENTS agree that they will continue to cooperate with the Securities
18 Division including, but not limited to, providing complete and accurate testimony at any hearing in
19 this matter and cooperating with the state of Arizona in any related investigation or any other
20 matters arising from the activities described in this Order.

21 14. RESPONDENTS consent to the entry of this Order and agree to be fully bound by
22 its terms and conditions.

23 15. RESPONDENTS acknowledge and understand that if RESPONDENTS fail to
24 comply with the provisions of the Order and this consent, the Commission may bring further legal
25 proceedings against RESPONDENTS, including application to the superior court for an order of
26 contempt.

3 17. RESPONDENTS agrees and understand that if RESPONDENTS fail to make any
4 payment as required in the Order, any outstanding balance shall be in default and shall be
5 immediately due and payable without notice or demand. RESPONDENTS agree and understand
6 that acceptance of any partial or late payment by the Commission is not a waiver of default by the
7 Commission.


18. BT represents that at all times relevant, he has been and is the: (a) owner and manager for BTS-AZ; (b) owner and manager of BTS-DE; (c) sole shareholder and president of BTA; (d) sole shareholder and president of BTAH; and (e) sole shareholder and president of BTSW, and that he has been authorized by BTS-AZ, BTS-DE, BTA, BTAH and BTSW to enter into this Order for and on their behalf.

Barron Wilson Thomas
BARRON WILSON THOMAS, a single man

15 STATE OF ARIZONA)
16) ss
County of Maricopa)

17 SUBSCRIBED AND SWORN TO BEFORE me this 1st day of October, 2010.
18

18
19
20



NOTARY PUBLIC

21. My commission expires:

22 | 2/28 | 2013

23 |||

24 |||

25 |||

26 |||



VERONICA A. ZAVALETA
Notary Public—Arizona
Maricopa County
Expires 02/28/2013

BARRON THOMAS SCOTTSDALE,
L.L.C., an Arizona limited liability
company

By Barron Wilson Thomas

Its Manager

STATE OF ARIZONA)
) ss
County of Maricopa)

SUBSCRIBED AND SWORN TO BEFORE me this 1 day of October, 2010.

My commission expires:

2/28/2013



VERONICA A. ZAVALETA
Notary Public—Arizona
Maricopa County
Expires 02/28/2013

BARRON THOMAS SCOTTSDALE,
L.L.C., a Delaware limited liability
company

By Barron Wilson Thomas

Its Manager

STATE OF ARIZONA)
) ss
County of Maricopa)

SUBSCRIBED AND SWORN TO BEFORE me this 1 day of October, 2010.

My commission expires:

2/28/2013



VERONICA A. ZAVALETA
Notary Public—Arizona
Maricopa County
Expires 02/28/2013

BARRON THOMAS AVIATION, INC., a
Delaware corporation

By Barron Wilson Thomas

Its President

STATE OF ARIZONA)

County of Maricopa)

SUBSCRIBED AND SWORN TO BEFORE me this 1 day of October, 2010.

[Signature]
NOTARY PUBLIC

My commission expires:

2/28/2013



VERONICA A. ZAVALETA
Notary Public—Arizona
Maricopa County
Expires 02/28/2013

BARRON THOMAS AVIATION
HOLDINGS, INC., a Delaware corporation

By Barron Wilson Thomas

Its President

STATE OF ARIZONA)

County of Maricopa)

SUBSCRIBED AND SWORN TO BEFORE me this 1 day of October, 2010.

[Signature]
NOTARY PUBLIC

My commission expires:

2/28/2013



VERONICA A. ZAVALETA
Notary Public—Arizona
Maricopa County
Expires 02/28/2013

BARRON THOMAS SOUTHWEST, INC.,
a Delaware corporation

By Barron Wilson Thomas

Its President

STATE OF ARIZONA)
) ss
County of Maricopa)

SUBSCRIBED AND SWORN TO BEFORE me this 1 day of October, 2010.

[Signature]
NOTARY PUBLIC

My commission expires:

2 | 28 | 2013



VERONICA A. ZAVALETA
Notary Public—Arizona
Maricopa County
Expires 02/28/2013

SERVICE LIST FOR: *In re Barron Wilson Thomas, et al.*, Docket No. S-20720A-10-0001

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Barron Thomas Scottsdale, L.L.C. (DE)
Barron Thomas Aviation, Inc.
Barron Thomas Aviation Holdings, Inc.
Barron Thomas Southwest, Inc.